

STUDIES *in* TORAH JUDAISM

Sabbaths and Festivals
in the Modern Age

By DR. EMANUEL RACKMAN



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Sabbaths and Festivals "in the Modern Age

By

DR. EMANUEL RACKMAN
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YESHIVA UNIVERSITY

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EDITOR'S INTRODUCTION

Dr. Emanuel Rackman's pamphlet "Sabbaths and Festivals in the Modern Age" is a fitting sequence to Dr. Belkin's scholarly essay on "The Philosophy of Purpose" with which this series of "Studies in Torah Judaism" began. Embracing the essential rationale of Judaism as purposeful and directional this monograph attempts to delineate in practical terms a teleologically-oriented philosophy as reflected in the area of Sabbath and Festival observances.

Such a pragmatic application of a purposeful approach conveys two essential ideas. In the first place, it insists upon the truth that authentic Judaism involves us in a life of commitment to God and to Torah. Absolutes are hammered out on the anvil of disciplined deeds. Truth in order to remain truth must be made real in life. A self-pampering, easy-going convenient religion is a delusion. Only adherence to a set of formalized and consecrated observances will propel us in the direction of self-fulfillment and invest our lives with cosmic significance and divine dimensions.

Moreover, observances and mitzvot, a teleological orientation of Judaism underscores, must be related to some metaphysical construct and a set of values in order to be meaningful. This requires that we engage in the study of "mahshavah," philosophical speculation, as well as halakhah. The highest form of synthesis is a blending of two currents of thought that we have inherited, one from the East in the form of halakhah and the other from the West — "mahshavah." It is incumbent upon us to integrate them into a unified whole in order that the timeless and essential insights of our faith be articulated in the idiom of our generation.

In the publication of these studies I wish to express my deep gratitude to the revered President of Yeshiva University, Dr. Samuel Belkin, for initiating the project and lending it his wholehearted

support and intellectual guidance; and to Dr. Joseph B. Soloveitchik for his illuminating and scholarly suggestions.

In preparation of this essay for print, I am indebted to my distinguished colleagues Dr. Sidney B. Hoenig, Rabbi David Mirsky and Rabbi Sol Roth for their generous assistance.

DR. LEON D. STITSKIN, *Editor*
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SABBATHS AND FESTIVALS IN THE MODERN AGE

The Sabbath, Judaism's day of peace, now wages a war for survival. In an advanced technological society, her regulations are considered "dated"; one constantly hears it said, for instance, that a prohibition against riding could not possibly have included the automobile, and laws with respect to fire could not possibly apply to electricity. Furthermore, we are told that the traditional conception of Sabbath rest should be broadened to include newer forms of leisure activity: creative art is urged upon us as a Sabbath goal pretty much equivalent to the older goals of prayer and study. Finally, it is said that even a Jewish state cannot function without flouting the Sabbath: the essential services of modern life must be maintained day and night. How, then, can the Sabbath survive?

THE FUNDAMENTALIST APPROACH

Often, indeed, the Sabbath suffers as much from her defenders as from those who would override her demands. Most champions of the traditional Sabbath have a conception of Jewish law which resembles the philosophical position of the "Imperative School" in general jurisprudence. John Austin, the founder of this school, who lectured at the University of London in the first half of the 19th century, regarded the law as a body of general rules laid down by a political superior to a political inferior. To discover the law, one must only discover the commands. The law is. What the law ought to be is irrelevant to the judicial process. It is not the jurist's function to replace the sovereign.

Austin thus abstracted the judicial function from all social and economic desiderata, and made judges neutral with regard to ideal ends. Within the law the great diversity of rules was to be analyzed and classified. If a judge was confronted with a new case — say, trespasses by planes in the air over one's home — he would have to resolve the issue by reference to the existing rules pertaining to the ownership of property. But this decision must be strictly logical and not based on social considerations, such as the development of air transport or its retardation.

Many orthodox teachers of Talmud take a similar view. Torah or Halakhah consists of rules handed down by a divine sovereign who will punish disobedience. Man lives to fulfill these rules — for in obedience lies salvation. In discovering or applying the rules, there is to be no reference whatever to social and economic conditions unless the rule in advance provides for such considerations. Changes can be made only as the divine sovereign willed them. The judicial process consists in discovering what the law is. Analysis there must be, but the analysis must be strictly legal, arrived at deductively or inductively from existing rules without reference to ideal ends or social facts.

This fundamental approach to Torah has at least one advantage over Austin's jurisprudence: at least the sovereign in Judaism is divine. And it would not be fair to imply that all Jewish fundamentalists are simply uninterested in the problem of Sabbath observance under modern conditions. The ultraconservative, it is true, hesitate to tamper with any divine command and do not even tolerate the suggestion that electricity may not come within the scope of the Biblical prohibition against fire; they do not want to jeopardize their right to eternal bliss by hazarding a decision which may be wrong. Others do venture to make an analysis: perhaps the "fire" mentioned in the Bible involves only that which consumes its objects or yields flame; the Talmud does distinguish between hot coals and hot metals; consequently, one

authority in Israel felt that this distinction warranted the conclusion that the extinguishing of hot metals was prohibited only by Rabbinic — not Biblical — law. Electric lights came into this category. A third group of scholars among the fundamentalists simply prefer to delay action. They feel that no Halakhic scholar has yet become sufficiently expert in physics to make the analysis as it should be made, and they wait for the day when great Halakhic scholars will also excel in theoretical and applied science; the training of such a group of scholars is even projected by one religious party in Israel. But the fundamentalists are united in their reluctance to probe the values implicit in the Halakhic texts.

One may ask this: if the Talmud makes distinctions, is the rationale of these distinctions of no consequence? Was there no philosophy of Sabbath ends involved in the dicta of the Rabbis? And shouldn't this play a part in the resolution of new issues?

Hillel recognized that the Biblical law which cancelled all debts in the Sabbatical year was defeating its purpose: the poor simply could not obtain credit. He therefore created the *Pruzbul* which vitiated the impact of the Biblical law by making the court the creditor instead of the individual (Mishna, Shebi'ith, X, 3).

One of the principal practices of mourning in ancient times was the complete covering of the head — *atfat ha-rosh*. The practice was suggested by a Biblical verse. Yet it was abandoned in the Middle Ages because the practice provoked laughter, and laughter during the mourning period was the very antithesis of the value which the mourning was to conserve (*Tosafot*, Tal. B. Moed Katan, 21a).

The Rabbis were opposed to free and unbridled competition in economic affairs. If one resident of an alley set up a handmill and another resident of the alley wanted to do the same, the

former could enjoin the latter and say to him, "You are interfering with my livelihood." Yet a teacher who set up a school was not thus protected; he could not stop a second teacher from coming in. In the propagation of Torah, competition was encouraged, for "the jealousy of scholars increaseth wisdom" (Talmud Babli, Baba Batra, 21b).

Do not these examples — and there are many more — represent something other than slavish commitment by the Rabbis to forms and texts instead of ends?

The Halakhah is more than texts. It is life and experience. What made the Babylonian and not the Palestinian Talmud the great guide of Jewish life in the Diaspora was not a decree or a decision, but *vox populi*. From Maimonides it would appear that it was the acceptance of the people who by custom and popular will constituted the authority.* Can a Halakhic scholar lose himself in texts exclusively when the texts themselves bid him to see what practice "has become widespread among Jews," what is required socially "because of the precepts of peace," what will "keep the world aright," and many other social criteria? These standards are as much a part of Torah as the texts themselves. A Halakhic approach comparable to that of Austin does not conform to the historic Halakhic process. In addition, it makes radical creativity altogether dependent upon the existence of a Sanhedrin — which cannot be conjoked easily, if at all. As a matter of fact, the proponents of this extreme position in Halakhah are generally the most bitter opponents of the Sanhedrin projected for our day. As Austin's jurisprudence ultimately became the basis for reactionary individualism as well as totalitarianism, so this Halakhic approach has become the one cherished most by Jewish reactionary theologians who would restrict Halakhic

* Cf. Introduction to Mishneh Torah.

creativity to the reconciling of the texts of authorities. This approach has the advantage of offering a simple answer to the question, what is God's will and wherein lies man's salvation; but that is not enough to make it palatable to those who believe there are no easy roads to God and His will. And for the preservation of the Sabbath, it certainly holds no promise.

THE HISTORICAL APPROACH

But the approach of the reformers has been equally unsatisfactory. If the fundamentalists in Jewish law approximate the general jurisprudence of Austin, the reformers were in great measure the spiritual heirs of the historical jurists, who viewed the law as a product of the historical process. Rules of law and procedure came into being at certain times and places because of political, economic, social, religious, ethical, or moral phenomena then and there prevailing; the law was simply a reflection of the state of a people's development. The earliest of the historical jurists, Savigny, paid reverential homage to the historical process. The law was like language — the expression of the *Volksgeist*; too much tampering with the law was dangerous, for it is always difficult to ascertain what is in harmony with the internal spirit of a people. Other historical jurists like Kohler, felt that "the law that is suitable for one period is not so for another," and thus invited changes suitable to changed conditions.

Liberal Jewish theologians are committed to the latter point of view for Judaism, while conservative Jewish theologians have accepted the former. "Reconstructionists" veer between the two positions — they agree with Savigny, and his Jewish counterpart, Ahad Ha'am, that radical departures from tradition are a

threat to the *Volksgeist* and constitute assimilation, but they are finding it increasingly difficult to reconcile their almost humanistic philosophy with resistance to reform. The Jewish layman, without realizing it, most often echoes the historical view, and the vulgar rationalism associated with it. He is likely to claim, for instance, that the prohibition against the making of fire on the Sabbath stems from a time when great effort was required for the purpose, apparently believing that Moses lived in the Stone Age, and that for the Rabbis too it was a major undertaking to light a fire.

One unfortunate effect of the historical approach is that it oversimplifies the process of legal development. First, it tends too readily to accept as historical fact what are mere conjectures. The prohibition against the eating of pig, for example, is vaguely believed to have some connection with the danger of trichinosis, and other Biblical prohibitions with regard to food are then assumed to be similarly "reasonable." Has anyone bothered to find out whether all the other animals, fish, and fowl prohibited in Leviticus (Chap. XI) also carry infection? Similarly with respect to the Sabbath, one must challenge the simple assumption that it was the expending of much effort that was tabooed. How much effort is required to write two tiny letters with a pen? Yet that too the Law prohibits.

Second, though history plays an important part in the development of law, it cannot explain everything. Women may have been subject to certain disabilities in Jewish law because it is alleged the Jews held women in low esteem and accorded them an inferior social status. But even if this was true, can history explain why women need not sit in sukkahs on the Feast of Tabernacles but must eat matzos with the men on Passover?

Third, in Judaism, precisely because it is a historical religion, the past has a unique philosophical and theological role to play beyond the role of shedding light on how that which presently

exists came to be. In the authentic Halakhic approach, history was always taken into account — reformers were not the discoverers of the role of history in Halakhah. The Rabbis, for example, found two contradictory sources with regard to the immunity of a king to criminal or civil prosecution by a court. One source held that a king was sovereign and subject only to God's punishment." The other held that the king was subject to the rules applicable to all Jews. To reconcile these sources the Rabbis gave a historical explanation. The kings of the Kingdom of Israel — who were idolaters — entertained a pagan conception of kingship and held themselves above the Law. The kings of Judah, however, were more righteous and accepted the Biblical theory that everyone was subject to the jurisdiction of established courts. History accounts for the contradictory sources. (Tal. B., Sanhedrin 19a.)

In Halakhah, however, history was not resorted to principally to reject a given rule because it arose under given past conditions at a particular time and place, but rather to fulfill a philosophy of history to which Judaism subscribes. Halakhah assumed that God was ever revealing Himself in His encounter with man, particularly through the people of Israel. That is why the festival of Hanukah was observed with lights over which a blessing was recited which attributed the performance of the mitzvah to the will of God. The Maccabean victory occurred centuries after the revelation on Mount Sinai. Yet neither conservative nor liberal theologians have changed the blessing to make it appear that anyone other than God willed the ritual of the candles. That was because the Halakhic process permitted the expansion of revelation into history.

Furthermore, the authentic Halakhic approach recognized that there were rules that were dependent exclusively upon time and place. While men and women were prohibited from wearing each other's clothing, the articles of clothing described in the

Talmud as prohibited to each sex were prohibited only so long as they were the distinctive garb of one sex or the other (Maimonides, *Mishneh Torah*, Hilkhoh Abodah Zarah, Chapter XII, Par. 9). It was even suggested by one great medieval Talmudist that if any Rabbinic rule was established for a reason which the Rabbis who established it could have believed would disappear, then such a rule does not require an equally competent Sanhedrin to nullify it. This Talmudist mentioned only two Rabbinic rules which he felt required formal abrogation: the promulgation of these two rules was predicated on the continuance of Jerusalem as the site of the Temple service, and no Rabbi in establishing these two rules could reasonably have anticipated the Dispersion. Otherwise, most rules were for special situations, and once the situation changed the rule became obsolete (*Hidushei Meiri* on Tal. B., Beza, Chap. 1, 5a).

Yet while the authentic Halakhic approach does take history into account, it cannot altogether substitute *Volksgeist* for Halakhah, nor can it substitute human ends for divine ends. The people are only one partner in revelation. To decide what of the past one will retain and what one will reject by criteria which eliminate God's role in the establishment of these criteria is to create the Halakhah in man's image, not in God's. Yet the writings of both liberal and conservative theologians abound in both of these conceptions. And if occasionally it is God's criteria that are referred to, then the criteria are most unrefined. That the Sabbath was meant to be a day of rest and relaxation becomes an acceptable postulate. Therefore, what constitutes rest and relaxation for the individual Jew becomes the measure of Sabbath observance — golf for the sportsman, music for the aesthete, dancing for the teen-ager, cigar-smoking for the addict. Is that all these Jewish spiritual heirs of the historical jurists can find in a three-thousand-year tradition of scholarship on the Sabbath? Did they really probe the depths and come up with so tiny a

pearl — that the Sabbath is a day of rest and relaxation? The answer is that they did not probe. History became an excuse to make the Halakhah suit one's desires and not the means to fathom God's will.

It is not only reconstructionists or reformers, however, who abuse the historical method in connection with the Sabbath. Dr. Yeshayahu Lebovitz has suggested in Israel that Sabbath restrictions be relaxed in the management of state affairs because such relaxation was permitted in carrying out the Temple service in ancient Jerusalem. The exemptions which the Temple enjoyed he views as an indication that the rules of the Sabbath were suspended when the interest of the collectivity was involved. The state, he argues, should now have the status of the Temple. But he has cited a very special instance of Temple service. On the other hand, it was from the fact that the Temple could not be built on the Sabbath that we derive all the thirty-nine prohibited forms of work. Israel's Chief Rabbinate permits the maintenance of essential services on the Sabbath because they are required for the preservation of life. The Sabbath's prohibitions yield because the welfare of human beings is at stake and not because the State personified a la Hegel is superior to the Law.

Many reconstructionists and reformers take a frankly utilitarian approach to the entire problem. They would change the Law to fulfill "the consent of the governed." But the weakness of the utilitarian position in any religious order is that the utilitarian is concerned with doing what will make the majority happy, while the religious man asks what ought to make the majority happy. What the Jewish community legislates occasionally becomes a part of the Halakhah. But the community's wishes alone cannot become the basis for divine Law. Jewish law would then be no more than the will of the majority. Would this not be a degradation of the Halakhah! At least the humanist utilitarian does not call positive law divine.

THE TELEOLOGICAL APPROACH

The only authentic Halakhic approach must be that which approximates the philosophy of the teleological jurist. The teleological jurist asks: what are the ends of the law which God or nature ordained and how can we be guided by these ideal ends in developing the Law? He uses the historical method but it is not his only concern.

The Torah, to the devotee of Halakhah, is God's revealed will, not only with respect to what man shall do but also with respect to what man shall fulfill. To apprehend these ends, however, requires more than philosophical analysis of some general ideals set forth in the Bible. It is not enough to say that the Sabbath is a day of rest. One must also study the detailed prescriptions with respect to rest so that one may better understand the goals of the Sabbath in the light of the prescriptions, for if one considers the end alone, without regard to the detailed prescriptions, one will be always reading into the Bible what one wants to find there. It is God's ends we are to seek, not our own. The Halakhic scholar must probe and probe, and his creativity must itself be a religious experience supported by the conviction that in what he is doing he is fulfilling a divine mandate — a divine responsibility. Thus in seeking to understand the Law he is seeking to understand God, and in developing the Law he is discovering God's will more fully for the instant situation. Needless to say, his results must meet the challenge of revelation in the Bible, the challenge of history in general and Jewish history in particular, and also the challenge of Jewish life in the present.

The teleological approach is to be found at its best in the work of Dr. Joseph B. Soloveichik of Yeshiva University. For him,

the Halakhah is "an a priori idea system...it postulates a world of its own, an ideal one, which suits its particular needs." To begin with, therefore, any rejection of the revealed character of both the Written and the Oral Law constitutes a negation of the very essence of the Halakhah. Jews who thus reject would do better to regard their interest in Halakhah as comparable to the antiquarian's interest in antiquity. They may become historians of the Halakhah, or borrowers from the Halakhah; they cannot regard themselves as actors within the Halakhic tradition.

But once one concedes the divine character of the a priori idea-system, one can turn to the second phase of Halakhic creativity — in which the Law begins "to realize its order within a concrete framework and tries to equate its pure constructs and formal abstractions with a multi-colored transient mass of sensations." On the level of application and realization, the Halakhic scholar has God's revealed method, "a *modus cogitandi*, a logic, a singular approach to reality which the community...had to learn, to understand, to convert into an instrument of comprehension of which man, notwithstanding frailties and limitations, could avail himself...Man's response to the great Halakhic challenge asserts itself not only in blind acceptance of the divine imperative but also in assimilating a transcendental content disclosed to him through an apocalyptic revelation and in fashioning it to his peculiar needs." There is objectivity and stability in the Halakhah. "Yet these do not preclude diversity and heterogeneity as to methods and objectives. The same idea might be formulated differently by two scholars; the identical word accentuated differently by two scribes...Halakhah mirrors personalities; it reflects individuated *modi existentiae*."

The observance of the Sabbath is one area in which the teleological approach is of special significance. Simply to assert that God wanted man to rest one day in seven, as the physician prescribes a vacation, is to oversimplify. Even to assert that

God wanted the day to be a holy day on which man will come closer to Him is to rush hastily to conclusions on the basis of a few Biblical verses and to ignore a tremendous Halakhic tradition which begs for philosophical analysis. Yes, rest and relaxation, as well as consecration, are ends of the Sabbath. But what do the prescriptions with regard to work imply? What is the unity in the thirty-nine types of labor traditionally prohibited? What is the point of the Rabbinic additions? To answer these questions will not only bring us closer to understanding what the Law is; it will also show us how the Law can be creatively developed.

The Law started with the Biblical premise that God wanted man to toil six days every week, thus making himself master of the earth and its fullness. On the seventh day man was to desist from toil. Maimonides correctly asserts that there are two commands with respect to work on the Sabbath (*Mishneh Torah*, Hilkhot Shabbat, I. 1). One is negative — no work shall be done. The other is positive — to call a halt to work, to apply the brake to one's productivity and creativity, to desist from the conquest of the earth. Why?

First, man can thereby demonstrate that he is not the slave of greed and envy. When, by self-discipline, man shows that it is in his power to call a halt to the acquisition of things and the exploitation of natural resources, it can be said that his craving for economic power is not altogether his master. Our sages understood this significance of the Sabbath. In a rather elusive passage of the Midrash they made the point. After Cain had killed his brother Abel, he repented and asked God to shield him from attack. The shield God gave him was not his "brand" as a murderer. Most Rabbis did not so understand it. It was rather the badge of the penitent. But what was the badge? It was the Sabbath. The Sabbath was called a "sign" and so was Cain's shield called a "sign." By Cain's observance of the Sabbath, people would identify him as a penitent for his sin of envy.

As a matter of fact, say the Rabbis, Adam later met Cain and inquired what God had done to him. "I repented," replied Cain, "and made peace with God." "Is that the power of penitence!" exclaimed Adam, and he forthwith recited "A Psalm, a Song for the Sabbath Day." Adam too wanted to demonstrate his own remorse for his sin of greed by proclaiming the sanctity of the Sabbath.

Thus the Law made the Sabbath a means for the cultivation of personal ethics — the mastery of greed and envy. Jews were first told about the Sabbath when God gave them the manna and tried them by ordering them not to gather it in on the holy day. Many Jews, nonetheless, went forth on the Sabbath to search for more (Exodus, XVI, 27).

Interestingly enough, the thirty-nine forms of work prohibited by the Law deal almost exclusively with the exploitation of nature. Every form of agriculture was prohibited as well as the preparation of agricultural products — including food and cotton. Hunting was prohibited as well as the preparation of meat, wool, and hides. While one was permitted to consume on the Sabbath articles taken from the earth in the six days of toil, the Law forbade the capture, discovery, and conservation of these products on the Sabbath.

DEFINITION OF WORK

We must remember that many definitions of work were available to the Oral Law. Work might have been interpreted to mean gainful employment of any kind. It might also have been equated with the expenditure of physical energy. It might even have had a physicist's meaning — e.g., Force X Distance. And if the Law regarded the Sabbath as nothing more than a day of rest and relaxation, any one of these definitions would have sufficed. However, it was the taking and creating from nature that

was prohibited. That is why the Law derived its concept of work from a surprising source.

The Bible had indicated that the Sabbath was not to be desecrated even for the construction of God's sanctuary. The Oral Law inferred from this that nothing could be done on the seventh day to speed up the rearing of the Temple or the furnishing of its interior. Here, therefore, was a clue to the meaning of the prohibition against work. Work was any activity connected with the construction of the Temple. Upon analysis, thirty-nine, in essence, turned out to be any taking from nature, or any creation from, or improvement upon, matter.

If the prohibition against work were simply a prohibition against physical labor, then the Law should have prohibited the transportation of articles anywhere. From the point of view of physical labor, what difference does it make whether one hauls wood a few yards from a forest or a few yards within one's home? The expenditure of energy is the same in each case. Yet the Law's principal prohibition was against the transportation of things to places where a new use would be made of them. Within one's home the difference in use could hardly vary materially: the articles were already available to the user and their removal from one spot to another could hardly be regarded as an exploitation of nature. But to haul from forests or deserts, or over highways connecting them, was to take something from a place where its manipulation was not easy to a place where its manipulation was more feasible. Or to remove from one's home to a public domain was to expand the usability and availability of the object removed. The Rabbis regarded carrying as a category of work "inferior" to other categories because no actual creation from nature was involved. However, even to expand the use of a thing already created was a remote form of the conquest of nature.

That is why one cannot help but be amused by some of the Law's reformers who, on the premise that the Sabbath is to promote rest and relaxation, conclude that creative art is an excellent form of Sabbath relaxation. To create is certainly permitted — but never to create out of matter. Let the Sabbath observer create ideas, or cultivate sentiments, or even discover God and His will. But as for things material, only their consumption is permitted on the Sabbath, not their exploitation or manipulation.

BACK TO NATURE

This analysis of the Law had further significance. Often in human history we have had protests against civilization and its compulsions, and Jewish culture, too, has had its impulse to go "back to nature." The festival of Tabernacles is one expression of this impulse. And so was the Sabbath.

"Back to nature" meant a static, as distinguished from a dynamic, existence — living with nature rather than the pushing of nature. That is why the Law prohibited the use on the Sabbath of that which was dynamic in nature — even animals and still growing vegetation. Moreover, just as one may not create instruments, one may not even use instruments, already created, if they have a dynamic character. Dishes for the serving of food were static — they could be used. Millstones, however, were to come to a halt before the Sabbath day. And it is this hostility to the dynamic that is the very antithesis of the mood of our lives in a technological age. That is why the original rules are so desperately needed now. A day to go "back to nature" once a week is more important now for peace of mind and human dignity than it ever was. Living with nature, however, means not living in primitive simplicity. One was only to restrain oneself from creative activity with respect to physical nature and seek instead to live in accord,

with man's guiding principle — God's will and reason. Man needs at least the one day to ask what are the ends for which he lives.

The automobile, for example, makes the prohibition against riding not obsolete but all the more compelling, for the automobile only increases the dynamism of travel. The deeper significance of spending one day within a limited area is that man shall find meaning to his existence where he is — and not where he can escape to. Similarly, the prohibition against fire was not a prohibition with respect to its creation and its creative power; electrically propelled motors come no less within the scope of the prohibition.

Using the terminology of means and ends, it can be said that the six days of toil are concerned with the means of life and the Sabbath with its ends. The six days of toil represent the temporal and transitory — the Sabbath represents the eternal and the enduring. That is why the Hebrew language has no names for the days of the week — they are all the first day, or the second day, or the third day, "to the Sabbath" — the Sabbath is the goal toward which time itself moves.

A DAY FOR ENDS

To make the Sabbath symbolic of perfect and immutable "being," the Law did not permit the use on the Sabbath of anything that did not exist before the Sabbath. For example, an egg laid on a Sabbath or holy day could not be used that day. The Talmudic discussion with regard to the egg evoked many quips from satirists — including the poet Heine. But the egg was only one of countless problems involved in seeing to it that the Sabbath should remain a day dedicated to ends.

The Sabbath was actually a day of transformation. The most bitter existence of peasant or laborer was transformed into something heavenly. From painful preoccupation with means all week, the higher man finally came into his own on the Sabbath.

Is it any wonder then that slaves too were to rest? How could a day dedicated to ends permit the exploitation of human beings as means! Nor were Jews permitted to employ non-Jews on the Sabbath notwithstanding popular opinion to the contrary. If a Gentile performed the labor for himself, a Jew was permitted the incidental enjoyment thereof, provided that the Gentile expended no extra effort for the Jew's benefit.

God Himself had rested on the seventh day. For six days He caused Himself to be expressed in matter and subjected His omnipotence to the bounds of natural law. But on the seventh day He reverted to His omnipotence, to His infinite freedom and essence as spirit. The fourth commandment, as presented in Exodus, indicated that the Sabbath was to be observed because God was engaged in creation for six days and rested on the seventh. The same commandment, as described in Deuteronomy, indicated that the Sabbath was to be observed so that Jews might remember that they were once slaves whom God had liberated. But the two explanations are one. Man was nature's slave six days a week. But on the seventh day he was to be free of this commitment, so that he might, in a kind of imitation of God, catch a glimpse of that freedom which is the essence of God's nature.

RABBINIC ADDITIONS

The Rabbis of course found it necessary to make many additional rules, safeguards around the Sabbath. In the main, these are the rules against which moderns are most rebellious. As a matter of fact, moderns frequently visualize the Rabbis as

misanthropes whose sole purpose was to make our lives as miserable as possible. There have been others in the past who could not understand the Sabbath. Sadducees and Karaites regarded the prohibition against fire as a prohibition against its use, instead of a prohibition against its creation and the use of its potential for still further creation. In darkness they sanctified the Sabbath. Many even outlawed food and sexual intercourse for the day. For them, misery was the keynote of the Sabbath.

The point of view of the Rabbis, however, stands in bold contrast — in fact, as a protest against these tendencies. The Rabbis prescribed the lighting of candles and made the Sabbath lights in the home one of the most significant features of the day. And they made eating and cohabitation on the Sabbath not only permitted functions but virtually mandatory ones. The Sabbath was not to frustrate man, but to help him fulfill himself.

In that large volume of the Talmud which deals with the Sabbath, one whole chapter (Chap. II) is devoted to Sabbath lights and the use of oils that will not only burn well but also without unpleasant odors. The principal passages of this chapter are recited every Sabbath eve by most Jews as an established part of the service. And lest there be Jews who think that eating on the Sabbath is not permitted, the Talmud prescribes not only the minimum number of meals for the day, but also elaborate techniques for keeping the food warm despite the general prohibition against cooking and the making of fire. That husband and wife should have sexual intercourse on the Sabbath became standard; but there is also a full discussion of how women may make themselves most attractive with perfume and jewelry despite the prohibition against the carrying of weights and the preparation of drugs. There was even a relaxation of some of the rules pertaining to the woman's ritualistic immersion after her menstrual period in order that there might be no postponement of cohabitation on holy Sabbath.

Further to prevent the many Sabbath prohibitions from becoming a barrier to the fulfillment of the Law's ideal, the Law emphasized two positive conceptions — *Kibud and Oneg* — the honor and joy of the Sabbath. The Sabbath was honored by festive dress and enjoyed with festive meals; it was welcomed with song and candlelight; its departure was toasted with wine and incense. On the other hand, just as concern with the minutiae of Passover observance caused Jews to become more impressed with the love of freedom, so the Sabbath's restrictions made for greater preoccupation with Sabbath goals.

Thus the Rabbis never lost sight of the Sabbath's affirmative aspects, which they expanded in every age. But they also had to expand the Sabbath prohibitions to meet changing conditions. The basic categories of prohibited work were established in times when hunting, fishing, cattle-raising, and farming were the principal occupations of man. In these endeavors there always was a direct taking and creating from nature. True, the Rabbis had to taboo many activities which resembled, or might induce, the basic activity prohibited by the Bible, in order to spread the knowledge of the Law and insure obedience to it. Yet, what of new enterprises — such as trading, which involved only the transfer of ownership with no changes whatever in the nature of the things traded? And what of business planning? And partners' discussions among themselves? And the use of money itself? Relying upon a verse in Isaiah (58:13), the Rabbis expanded the Sabbath's prohibitions to include commerce of any kind, and the prohibition stands despite the fact that many retail storekeepers profess that they are Orthodox Jews. In fact the Rabbis so expanded the prohibitions that they are adequate for an industrial age as well as a commercial one. Thus, without even considering the propriety of using electricity on the Sabbath, the viewing of television was prohibited a few years ago, in a responsum published by Yeshiva University's "Talpioth," because the vulgarity

and the commercialism of the programs were not consonant with the mood of the Sabbath. Similarly, one can expect additional new prohibitions; our machine age needs more than ever the reminder that man himself is more than machine.

OUR MODERN SABBATH OBSERVANCE

How far does Sabbath observance in modern times fall short of the traditional objectives! For most Jewish families the day has no significance whatever. For others there is occasional participation in a religious service, usually to celebrate a Bar Mitzvah or Bas Mitzvah. Even in homes with elaborate Sabbath meals — with candles and Kiddush and perhaps a few guests — neither parents nor children dedicate their conversation to the ends of life or the spiritual quest of man. Orthodox homes are seldom more inspiring. Their excessive preoccupation with Sabbath prohibitions most often excludes adequate consideration of the positive values to be achieved, and the Sabbath becomes indeed a day of frustration.

To save the glory of the Sabbath, we must perhaps recall Plato's prescription for the state, namely, Jews must become philosophers. That does not mean that non-philosophers can experience no Sabbath joy. But unless our teachers and leaders undertake to expound the philosophical significance of the Sabbath and help everyone to grasp and live its meanings, the Sabbath will become nothing more than a day of leisure for most Jews and a haunted day for those who make the prohibitions ends in themselves. By all means the rules of the Sabbath will change and develop as they have done in the past. But our primary problem is not how to modify the prohibitions, but rather how to follow the

path suggested by the prohibitions and give positive content to the day's observance. Only then can we think of modifying the prescriptions for only then will it be possible for our modifications to have any valid meaning. The aim must be not to evade the Sabbath, but to fulfill it. That aim may demand some relaxation of prohibitions; but it may also demand the establishment of new prohibitions.

THE SABBATICAL YEAR

What was true of the Sabbath was also true of the Sabbatical year. The Law enjoined that every seventh year shall be a year of rest. Jews were to engage in no agriculture whatever. If the soil did yield fruit, that fruit was deemed ownerless. Anyone could harvest and consume it.

The Bible said, "And the earth shall rest." Perhaps — as many suggest — permitting the earth to remain unploughed and unseeded was a substitute for the rotation of crops. But the Sabbatical year had significance far beyond the soil's conservation. And the Law projected for it ends ethical and philosophical.

In Exodus the Law of the Sabbath and the Law of the Sabbatical year were cited together (XXIII, 10-12). Our sages did not regard the association as purely coincidental. While many prohibitions applicable to the Sabbath day did not apply to the Sabbatical year, because one could not afford to be as unproductive for twelve months as one was for a day, nonetheless, the ends of the Sabbatical year must be related to the Sabbath's ends since their statutes are joined together.

During the Sabbatical year Jews were not to cultivate or improve their fields. Thus they had an excellent opportunity to spend

considerable time in the study of Torah. It would appear that this study was to culminate at the end of the year in a great mass demonstration of allegiance to God's word. Jews were to congregate in Jerusalem during the festival of Tabernacles immediately following the conclusion of the Sabbatical year and with their king perform the ceremony of "Hakhel," described in Deuteronomy (XXXI, 10-13). Special passages of the Law were read aloud to the vast assembly, which included men, women and children. That this rededication to the Law was to take place after the Sabbatical year suggests that the rest and relaxation of the seventh year were meant for study by the populace as a whole. Interestingly enough, in America today the principal beneficiaries of this goal of the Sabbatical year are America's teachers. Only the academic world has adopted the institution.

The Sabbatical year, however, as prescribed by Torah and understood by our sages, had added significance. By abstaining from the cultivation of the soil, Jews affirmed that the land was not theirs but belonged unto the Lord. This was the meaning of God's proclamation in Leviticus in connection with all the laws pertaining to the Sabbatical and Jubilee years — "Mine is the earth." This thesis is basic in much of Jewish law.

As the Sabbath each week was to constitute a curb on greed and envy, so the Sabbatical year was to deflate man's conception of the nature of his property holdings. Man often exaggerates his claim to what he calls his own. He regards private property as divinely sanctioned and he resists the interference of society and state in his enjoyment of that which he has staked out for himself. He invokes natural law to retain what he has and to accumulate more. In the name of God, nature and constitution, man nurtures his greed. True, the Torah did grant privileges with respect to the enjoyment of worldly goods and their conservation for personal use. However, the Torah would never countenance what became the philosophy of nineteenth century American

capitalism as embodied not only in the writings of Herbert Spencer but in the constitutional law decisions of the United States Supreme Court. On the other hand, the Torah with its law of the Sabbatical year wanted to impress Jews with the fact that all land is held subject to God's will. The use of the land was man's. Title, however, remained in God. And even the uses were limited by God. One year in seven the produce belonged to everyone. Any person could harvest the crops and claim it as his own.

One may have noted that for one week every year, in the heart of the world's largest city — at Rockefeller Plaza in New York — pedestrians are denied the right to use the walks and terraces. The owner of the land, Columbia University, thus seeks to inform the public that when they use the walks and terraces they do so only as licensees. However, they are not to deduce therefrom that Columbia has abandoned its title and made a grant of that land to the public. In a similar vein, God willed that Jews exclude themselves one year in seven from doing with their lands as they please. God affirms His own title in that year, and man should spare himself any false inferences from the fact that God permits him to use the land in other years. In the Jubilee year there was to be a complete redistribution of the land but at least one year in seven man was prepared for the ultimate defeasance of what he might erroneously regard as an indefeasible right. One year in seven he was made aware of the limited character of his proprietary interest. The Jubilee year was the occasion not only for a redistribution of property but also for the emancipation of Hebrew slaves, even if they had not completed the prescribed six years of servitude and even if they had theretofore voluntarily prolonged their bondage. Not only the Jew's rights to the land came to an end but also his rights over his fellow-Jew.

During the Sabbatical year, however, property rights suffered another major invasion. All debts were cancelled. Landed wealth

was not the only form of wealth subjected to God's ultimate title. Personal property too required some weakening lest its holders become too enamored of its sanctity. Tragic it was that the Bible failed in its purpose. Because debts would be cancelled in the Sabbatical year, rich Jews refused to extend credit to their less fortunate brethren. The Biblical rule had to be modified to encourage the granting of loans. Yet who can gainsay that the whole pattern of the Law's prescriptions was designed to curb greed and exaggerated claims of ownership and possession.

JUDAISM, SOCIALISM AND CAPITALISM

One may wonder how the Law could reconcile its virtually socialistic conception of property with many of its property-minded mandates such as an almost absolute rule that lost property may not be enjoyed by its finder, even when the owner's identity can never be ascertained. However, the Law was not self-contradictory. The Law was concerned with the greed of all people — the haves and the have-nots. It directed its prescriptions to rich and poor alike. The rich were not to claim more than the Law permitted; nor were the poor to seize what was not theirs. And the Law veered between two antinomies — it discouraged the propertied interests from exaggerating the value of their holdings and it encouraged the propertyless to respect the holdings of others and not give vent to their greed and envy by seeking to acquire in violation of the Law.

The Oral Law also sought to fulfill the spirit and intent of the Written Law. And it too was concerned with both the haves and have-nots.

With respect to the haves, the Law had one great plan. Though the Law prohibited the cultivation of land in the Sabbatical year, it permitted the use of whatever crops did grow. The crops

were deemed ownerless and anyone could help himself to whatever he chose. However, the landowner himself was a member of the general public. He might harvest the yield of his own field. He certainly would have the first advantage in doing so — enjoying as he would proximity to it and knowledge of its readiness for harvesting. If the Law had prohibited owners from enjoying the fruit of their own fields, they might conspire with other owners to exchange crops. The Oral Law, therefore, complemented the Written Law and taught that the crops could only be harvested for use — for immediate consumption. It could not be stored for long, nor could it be traded. As a matter of fact, if stored beyond the permitted period the crop could not be eaten by anyone. Even the proceeds of its sale were tabooed.

Furthermore, the year of rest — presumably for dedication to God and His Law — might become the occasion for work other than ploughing and seeding. One might take advantage of the Sabbatical year to make improvements that would affect future crops. All of this was prohibited except such work as was essential for the conservation of the soil and its trees.

Unfortunately, when Jews lost their autonomy, and Roman governors insisted on annual payment of taxes, the institution of the Sabbatical year disappeared. Jewish law yielded to the demands of life. The spirit of the institution, however, and its deflationary effect on the sanctity of private property remained. Private property was subject to the will of God — and the will of Jewish society, as reflected by the will of its duly constituted authorities, was also the will of God. Thus there developed the basic maxim in the Jewish law that a Beth-Din — a Jewish tribunal — has the power to declare property ownerless and thus modify property relationships as it chooses. Jewish law never suffered the constitutional restraints with respect to property that blocked social legislation in the United States for decades. Jewish courts were less powerful in areas other than property. But property in Jewish

law never lost its character as means. As means it was ever subject to the public weal. And thus it can be seen how both the Sabbath and the Sabbatical year have implications for man's body and soul — for his personal as well as his social ethic, for his philosophy of life and even his metaphysics.

THE FESTIVALS AND ISRAEL

It was God alone who sanctified the Sabbath — no human being helped. However, it was God *and* His people who sanctified the festivals. Detached from the history of Israel, the festivals are without meaning. And of this difference the Law was ever aware in establishing how and when they shall be observed. Because the people had a share in the emergence of the festivals, their philosophical significance was also more readily grasped and fulfilled. Together with the Sabbath, they were Judaism's most effective means to help Jews achieve personal fulfillment and ultimate happiness. Indeed, the cycle of the festivals had as their climax the feast of Tabernacles which was designated the season of their happiness.

Since it was God Himself who fixed the Sabbath day and made it holy, there can be no changes whatever in its incidence. The nations of the earth may decide to change their calendars; they may establish ten day weeks, as did the French in the late eighteenth century. or six day weeks, as did the Soviet Union in the third decade of the twentieth century. They may redefine the months or years, and intercalate days which postpone the coming of each new week. For Jews, however, the Sabbath will remain the seventh day computed uninterruptedly from Creation. Calendar changes by the United Nations may cause untold hardship for

Jews who may discover that their Sabbath every year will occur on days that differ from those reckoned as Saturdays by the rest of the world — on one day of the week in one year and on another day in the next year. But Jews are helpless to change what God had ordained, no matter how great the inconvenience to them.

Not so is the Law with regard to the festivals. In fixing their incidence the Jewish people were sovereign. The oral tradition was emphatic with regard to the people's power to determine when months and years shall begin and end. Presumably God Himself had abdicated in favor of His people. Talmudic and Midrashic literature makes it symbolically clear that when the Lord and His angels want to know when Rosh Hashanah occurs they themselves consult Israel's highest court, the Sanhedrin (Shemot Rabbah, 15:2).

Furthermore, God's abdication was virtually so complete that while technically the court was bound by stellar phenomena — the appearance of new moons to fix the first day of each month and the incidence of the seasons to decide whether any given year shall consist of twelve or thirteen months — the Law permitted the courts to be indifferent to the facts of nature. Human beings had a right to manipulate nature to suit themselves. The Sabbath, on the other hand, was rooted in divine history and no court could change the past or any of its signs and covenants.

What is of interest is that the highest court of ancient Israel did reckon with the people's convenience when fixing new moons and new years. If, for example, the month in which Passover occurred was proclaimed too early, pilgrims might have to wade through mud to get to Jerusalem. If, on the other hand, it was proclaimed too late, then in a year of drought Jews might be discomfited because they might not be permitted to eat of their new crops before a much deferred second day of Passover, when

the offering of the Omer released the new crops for general consumption (Bal. T. Sanhedrin, 11b).

Long ago the Rabbis so fixed the calendar that certain festivals could never occur on certain days of the week. Thus, for example, the Day of Atonement can never occur on a Friday or Sunday. Indeed, the calendar which so provides was established more than fifteen hundred years ago. The Rabbis made a very precise calculation for the fixing of the new moons and new years. On this calculation we have relied through almost two millenia of exile. However, this calendar is not the slave of astronomy, or nature, as the Sabbath is bound by divine history. Nature is always means, and not an end. If anything, history must ultimately vanquish the evil in nature itself. And that is why Jews expect that even though their calendar, as now observed needs no further improvement, they will, nonetheless, ignore it when the Sanhedrin is again reconstituted and the Sanhedrin will once again resort to the ancient manner of declaring new moons — by the examination of witnesses and by judicial decree. In this way they will reaffirm their right to decide when new moons and new years begin. Nature is their instrument and not their master.

MAKING TIME OUR OWN

The command to fix a calendar was the Law's first mandate to the Hebrew slaves on the eve of their emancipation. It was the first message of freedom, for only he is free who can make his own time. That is the badge of freedom. The Egyptians had used a solar calendar. Jews were told to use a lunar one instead. This was a declaration of independence. Moreover, the month of their liberation would thereafter be deemed the first month of their year. It might be the seventh month of the year as computed from Creation, but of what significance were the

earlier months to slaves whose time belonged to their masters! The month of their freedom was really *their* first month and as such it would be regarded forever. Thus did freedom's message become related to the importance of time. And the power to fix the lunar calendar was vested in the people of Israel in perpetuity. They alone would intercalate the months and the years. That is also why they will resume the exercise of this power when the temple is restored. They cherish a monthly reminder of their freedom — their right to make decisions with respect to time, even in defiance of astronomical exactitude.

The rejection of the solar calendar, however, was more than a symbol of the Jewish people's right to compute their own time. The solar calendar was closely associated in Egyptian life with the worship of the sun. And Jews were to reject the worship of the sun together with its calendar. As a matter of fact, Israel's mission to destroy paganism was thus established. Many Americans became famous as trust-busters. Others excelled as gang-busters. But the historic destiny of Israel was to expose and explode the false gods whom men enthroned.

With the rejection of the sun-cult, there came also the rejection of the Egyptian worship of cattle. The law of the Paschal lamb became symbolic of this rejection. While their erstwhile Egyptian masters looked on, the Jewish slaves were to take the sacred animals of Egypt and slaughter and consume them. The slaves thus learned two additional truths about freedom. First, to be free one must be courageous. Second, a free man must fix his sights upon the true Lord. Otherwise his freedom can become license. Or it might even lead to personal disintegration when detached from an ideal worthy of fulfillment.

One must not forget that even as we crave freedom from fear, one of our greatest fears is the fear of freedom itself. Too many men dread the moral responsibility that freedom entails.

They prefer regimentation. They also prefer to transfer to a "leader" the power of moral choice which they ought exercise themselves. The Hebrew slaves were no different. And Moses and the elders had to urge them in advance of their liberation to prepare for freedom courageously. Fearlessly they were to defy the false gods of Egypt and smear the blood of these animals over their doorposts. Only he was worthy of redemption who would make manifest this courage!

He who would be free must also be alert to seize his opportunity the moment it presents itself. People often forfeit their opportunities by tarrying too long. That the modern state of Israel now exists, and enjoys full recognition as a member of the United Nations, is due to the fact that its leaders did not tarry when their historic moment came. And the Law ever impressed this on Jewish minds. It made the *Matzo* the symbol of haste — the symbol of the speed with which the Hebrew slaves were to go forth to freedom from bondage. It was their "instant-bread." The bread that was leisurely baked then became symbolic of all the ills of luxurious civilization, the softening up that comes with comfort, the preoccupation with material values induced by economies of abundance, and the spiritual degeneration that follows self-indulgence. The unleavened bread, on the other hand, was the bread of poverty. Those who were once slaves were to consume it annually as a reminder of their erstwhile misery. Perhaps they would thus become more responsive to the misery of others.

PASSOVER'S SOCIAL VALUES

That we shall be sensitive to the plight of our fellow man because we ourselves were once in need of help is the one idea which the Bible did not hesitate to repeat time and time again. We were not to hate even the Egyptian for we had sojourned in

his land for many years. The common man of that land of bondage was not to be despised because of the diabolical machinations of its Pharaohs. And the festival of freedom thus nurtured not only a love of freedom but a dedication to every social value which has become a glorious part of our ancestral heritage.

The festival's preoccupation with social values had another important consequence. It was Judaism's first festival and was ordained from the very beginning to be a family celebration — not a private feast. Judaism, in its earliest conception, was a social religion, and not predominantly a means for individual salvation. The Paschal lamb was to be offered by family units — every member of which was to be specifically counted upon for the observance. This became Judaism's unmistakable pattern. Too many religions ask, "What must a man do to make his peace with God that he may enjoy life everlasting?" Judaism is more concerned with what a man shall do in his relations with his fellow man that God's Kingdom may exist on earth as it does in heaven.

That is why the Passover festival should not be called the "Jewish Easter." The philosophies of the two festivals are completely antithetical. Easter is Christianity's holiday to symbolize its preoccupation with the other-worldly salvation of the individual. Passover, on the other hand, is Judaism's festival par excellence to symbolize the role of religion in this-worldly social amelioration. It is to evoke a moving regard for human suffering and a burning passion for the liberation of the oppressed. Indeed, our sages exclaimed (Tal. B., Taanith 7a), that the Torah has little to say to the individual living in solitude. It addresses itself primarily to man as a social animal.

The Law never lost sight of the fact that Passover was meant to be a family celebration. The Bible had suggested the role of children. The colorful observances would prompt them to ask

questions and parents were enjoined to reply. Consequently, the traditional Seder service gave prominence to this pedagogic goal.

Indeed, it is impossible to understand the Seder service without taking account of its design for the young. Queer things are done only to initiate their queries. This is the sole significance of the dipping of herbs in salt water. An amusing multiplication of plagues is also offered for their amusement. Since God had promised never to inflict upon Israel the plagues He inflicted on Egypt, the sages tried to multiply the plagues from ten to two hundred fifty, thus to preclude God from even more evil that He had promised to withhold. The humorous reasoning in which they indulged was meant for children. In order that children shall make every effort to stay awake till the conclusion of the feast, charming songs and ditties were reserved until the close of the service. And amid all the action and amusement, there is the telling and retelling of the story of the Exodus.

With no theme of Judaism has there ever been as much concern for its transmission to posterity as with the theme of freedom. God had willed that His people be free that they may fulfill a great purpose for all mankind. They were to be transformed into a society of priests and a holy people. But to fulfill this mission they must themselves sense the joy of God's liberation. The Passover feast was to convey this mood and it was designed to give every Jew an awareness of the reality of his personal redemption.

This feeling of personal participation in the exodus from Egypt was more than homiletics. It meant so much to the anonymous editors of the Haggadah, which is the prayer-book for the Seder service, that the principal selection from the Oral Law which they included in the text was based on a Biblical text involving not Passover, but rather the offering of the first-fruits which was due on Pentecost. Why? Simply because the offering of the first

fruits was the one ritual which required every Jew unto eternity to make the pilgrimage to Jerusalem and there recite that he himself had shared the misery of Egyptian bondage and the glory of liberation! Only generations that could personally share the experience of bondage would cherish their freedom and preserve it.

WORK ON THE SABBATH AND FESTIVALS

Passover and the Sabbath are related to each other. The Sabbath has a message of freedom for the individual. Passover addresses its message of freedom to the group — to the nation. On neither may one work, thereby expressing an independence comparable to that of God.

However, the Sabbath differed from the festivals in that it had prohibitions with respect to work that were stricter than those applicable to the holy days. On the festivals the use of fire was permitted for the preparation of food; cooking and baking were encouraged for lavish feasts; and even the transportation of objects for immediate use was not enjoined. Only the Day of Atonement was in the same category as the Sabbath. Yet, why was it permitted to do some things on the festivals that one might not do on the Sabbath?

Here, too, texts, history and philosophy, played their part in moulding Jewish law. In connection with the festivals, the Torah used the term "melekhet abodah" while in connection with the Sabbath the term "melakhah" was used alone. The latter term is more generic and includes even less creative types of work, such as the preparation of food, which involves no substantial taking from nature and only the remaking of things already

taken. Since the making of fire on the Sabbath was prohibited, and fire is used principally to refashion matter already apprehended from nature, the Oral Law affirmed that on the Sabbath even cooking and baking would be prohibited, even though the foods cooked and baked were harvested before the Sabbath. However, on the festivals only "melekheth abodah" was prohibited and that meant creative work. The use of fire was permitted and so was the transport of articles, since neither is truly creative enterprise. (*Sefer ha-Hinukh*, Chavel, ed. Mosad Rav Kook, Jerusalem, Mitzva 315.)

History too supported the Oral Law. When Moses transmitted to his people the laws of the Passover he specifically permitted the preparation of food. When, however, the manna was given to them, and Moses then and there — even before the promulgation of the Decalogue — ordained the institution of the Sabbath, he ordered that the cooking and the baking be done before the Sabbath. Moreover, Moses could not have prohibited the preparation of food on the festivals since the Paschal lamb itself had to be broiled on the night it was eaten.

However, the ends which the festivals were to fulfill were as important as texts or history. The festivals have one command repeated again and again in the Bible. They must be observed in joy. Even more than on the Sabbath, Jews were to be happy on the holidays. And as if to accentuate this theme the Torah seemed to say to man's appetites that on the festivals even the Sabbath's restraints upon them could be relaxed. Therefore, for the festival one did not have to prepare everything in advance on the eve of the festival and thereby risk inadequate preparation, or spoilage. One could always prepare on the holiday what one required — and in abundance.

But what is happiness? Happiness should not be equated with pleasure, for one can be happy even in pain. Happiness is that

which brings us closer to the fulfillment of the ends of our being. Yet the means to the fulfillment of ends can also afford pleasure. On the Sabbath, however we ignore these means for on the Sabbath there is no special command to ponder the meaning of happiness. On festivals we take some cognizance of the means too as a potential for happiness. Thus we have limited license with regard to some work. And what kind of work may we do? Never work that God would do. God performs creative work — and as He desisted from creative work on the Sabbath to express His freedom, so we desist from creative work on Sabbaths and festivals in imitation of Him. However, He never performs the work permitted on festivals. He never refashions things to make them more palatable or delightful for Himself. But having made us as He did, and having ordained that we rejoice on festivals, He permits us to enjoy some means in the midst of whose enjoyment we might the more readily relish the pondering of the ends of life.

THE FESTIVAL OF THE LAW

Happiness, however, could not be commanded to a free people until it had received the Law, for in God's word lay the ultimate happiness.

Moreover, the transformation of the emancipated people of Israel into a society of priests and a holy people could only come as the consequence of a great covenant between God and His flock into which all parties entered voluntarily. This covenant was consummated at Mount Sinai and is commemorated by Israel's second festival — the festival of Weeks.

Seven weeks after the exodus from Egypt, God gave the Law. Of course, not all of it. But because the Decalogue was then given, Jews have always conveniently regarded the date of Revelation as the date for the giving of all the Law.

Archaeologists and anthropologists remind us that both the Feasts of Passover and Weeks had great agricultural significance. Even some of the observances prescribed in the Bible had their analogues in primitive religion. Does that detract one iota from the genius of Revelation which transformed primitive institutions so radically that the most exalted of modern men can still delight in the new meanings and derive inspiration from them? Brahms was once told that his first symphony was very similar to Beethoven's ninth. He retorted that any donkey could tell that. He wanted credit for his own achievement with respect to familiar themes. Judaism's thoroughly gradualist approach required that it transform the already familiar. Where Judaism could permit no gradualism — as in the case of human sacrifice — it did not hesitate to prohibit without equivocation. Where, however, it could proceed by modification, reinterpretation, or re-evaluation, it preferred the method that though slower, insured greater effectiveness and more enduring success.

In this way the festival of the first fruits — the perennial occasion for rejoicing — became the festival commemorating the giving of the Law. Interesting it must be, however, that this festival was the only one that ultimately lost every trace of its agricultural antecedents. Even after the destruction of the Temple, and the dispersion of the Jews from the land of their fathers, Passover and Tabernacles retained some evidence of their association with the soil and its seasons. The festival of Weeks, on the other hand, was the only one dedicated exclusively to history. And it is fitting that this should have happened. Until the messianic era, and the restoration of the Temple and its rituals, God's revelation will remain an event whose significance will not be diluted by other considerations. Furthermore, no special observances distinguish the festival. No one Mitzvah enjoys special status by virtue of its association with the most important event in human history. The whole Law was to be pondered and ap-

preciated. To that end, our sages prepared a special manual consisting of selections from the totality of Judaism's sacred literature which Jews might study on the holiday.

The study and appreciation of the Law, however, is to induce its reacceptance. In Jewish tradition, the reacceptance of the Law plays a very important role. On the festival the book of Ruth is read. Ruth — the Moabite — is memorialized for her readiness to take on the yoke of the Law. She thus merited the right to be the great-grandmother of Israel's greatest king — David, the singer of Psalms. Furthermore, the Rabbis visualized that every time the Scroll is read in synagogue services the purpose is not study alone but a re-enactment of Revelation at Mount Sinai and the reacceptance of its mandate by the people of Israel. Thus, for example, Jews were always wont to stand as the Torah was read even as they stood at the mountain where the Law was given. Even Jews who had already studied on that very day the portion about to be read were to stand at attention during the formal reading. If the purpose were study alone they might have been relieved of that obligation. But there was also the requirement that upon attending any formal reading one should visualize oneself as a participant in historic Revelation assuring the Lord that one will perform as well as listen.

THE FESTIVAL OF HAPPINESS

The festival dedicated to the Law added a new dimension to the conception of happiness. Through the study of the Law one could come closer to the ends of one's being. Physical delights in freedom might make for pleasure. However, intellectual pre-occupation with God's word would bring "Simha" — joy in a loftier sense.

Yet, the holiday that was dedicated to the most comprehensive notion of "happiness" was the festival of Tabernacles. That

festival seemed to complement all that was omitted in earlier conceptions and gave more depth and meaning to significances already noted. The High Holy Days, which were also joyous festivals — although not discussed herein — made the Jew mindful of the religious values of penitence and purity, and placed the accent on communion with, and commitment to, God. Once all of these values had been introduced into the calendar's round, the Jew could observe the festival which merged all of them into a unit and became the "season of our rejoicing" par excellence.

This festival of Tabernacles had the least historical significance. It was the feast of the Ingathering of the Fruits. Until this day it is the most prominent nature festival Judaism has. Volumes, however, have been written on the spiritual significance of every one of its many agricultural symbols. To summarize this literature would take one far afield from the theme of this paper. What is more important is to consider what the Law did with the symbols.

The Law fixed the character of the symbols — the dimensions of the temporary dwelling to be occupied, the requirements for its roof and the physical appearance of the four fruits to be taken in hand — including the number of leaves on the myrtle and willow. The minutiae of the Law are such that one has good and sufficient cause to wonder whether an observant Jew may not forfeit all the joy of the festival by becoming preoccupied with all the details of the prescriptions. One must, therefore, ponder the philosophy which the Law's method here suggests.

A harvest festival is always a joyous occasion. However, it usually brings with it a weakening of religious sentiments and a relaxation of moral standards. One's sense of gratitude gives way to feelings of pride and power. "This is my achievement," says man. He is not then as conscious of his dependency upon God as he was at the time of ploughing and seeding. Nor is

he as apprehensive as he was when the rains were due. The harvest suggests hilarity and with hilarity the sensuous is accentuated. The drive to wine, woman and song, is also stronger when one's success overwhelms. The discipline of the Law must, therefore, come into play with greater stringency than ever. Joy there shall be but never without awareness of Him Who is the Source.

The ceremonial of Judaism helps in moments of great emotion. "It reduces the expenditure of emotional energy and steadies our heartbeat, preventing us from losing balance alike in hours of extreme happiness or unhappiness." That explains why the most joyous season of the year required especially effective regulation. When man was most apt to boast of his own prowess, the Law subjected him to the sovereignty of the Lord, and even made him leave his secure dwelling to live in the frail Sukkah.

However, it was more than an awareness of God that the symbols brought to the Jew. Precisely at a time when because of the harvest we might become too impressed with ourselves and our good fortune, the symbols were to induce a sense of God's nearness and our dependency upon Him as well as feelings of equality and brotherhood for our fellow-Jews.

The "back to nature" character of the Tabernacles festival, which made it so similar to the Sabbath, beckoned another period of nuptials with God as after the exodus from Egypt. Yet, "back to nature" also implied a break with the inequalities of civilization. Therefore, all Jews were enjoined to leave their homes — no matter how palatial — and spend a week in huts which could be neither too small nor too large, neither too frail nor too sturdy, neither too sheltered nor too exposed. The rich and the poor met on a plane of equality at least from the point of view of their residence. And if this were not enough to make everyone conscious of his creatureliness — his utter dependence upon God and consequently, his inability to boast a superiority

over other humans — God ordained that we take the four species, the citron, willow, palm-branch and myrtle, — each of which represents a different type of human organ or a different type of human being — and acknowledge the interdependency of all humans upon each other and their several parts.

When the meanings of particular prescriptions were least apparent thereby calling for more unquestioning obedience to the divine mandate and consequently evoking a more complete resignation to God's will, the imagination of Jews was most exercised to discover the mysteries behind the observances. Everyone recognized the basic point — that in one's greatest joy one must never forget its Source. But many important historical and ethical insights were gleaned from the prescriptions themselves. Through these ethical insights, the festival of joy would not nurture self-centeredness but rather induce a conviction with regard to the basic brotherhood of men and their responsibility for each other. The Sukkah itself was regarded sometimes as the symbol of the frailty of life, and sometimes as the symbol of Israel's temporary sojourn in the many lands of dispersion. Sometimes it was even deemed the symbol of Israel's earliest history when Israel lived as if in the lap of God, trusting only in the Lord and His bounty. Aye, the symbolism was colorful and fired the imagination in every age. Basic, however, was the authority of the Law disciplining man's rejoicing and making him mindful of the fact that it was not he, man, who achieved the success but rather He to Whom the bounty of the earth must be ascribed.

The many prescriptions, however, did not mitigate from the "happiness" motif of the festival. As on all festivals, Jews were to eat and drink and be merry. Yet, as on no other festival there was to be intellectual activity and spiritual commitment. As one Rabbi put it, this was the one festival that one could only observe with one's whole body — the entire body had to enter the Sukkah. (*Siach Sarfei Kodesh*, J. K. K. Rokotz; Lodz, 1929; Hebrew; Vol.

IV, 29. Quoted in Newman and Spitz — Hasidic Anthology, p. 465) But the Sukkah was also the one Mitzvah that one was commanded to perform with *knowledge* of its historical allusion. The performance of the Mitzvah was incomplete without awareness of its association with the exodus from Egypt. This required intellectual activity. And like the citron, which clings to its tree no matter what the changes in temperature, Jews were to find happiness — in the harvest season itself — in their cleaving to God. This meant spiritual commitment.

It should be no surprise, therefore, that the ultimate fulfillment of the festival came on *Simhat Torah* — the occasion for song and dance with the Scrolls of the Law. This was happiness — when one could truly feel exalted because one really belonged to God, His people and His Law.

Perhaps it would have been more appropriate to have such a celebration on the festival of Weeks when the anniversary of Revelation was observed. Why did our sages choose Tabernacles instead and make *Simhat Torah* the climax of the season of joy? The famous preacher of Dubno suggested the answer.

The Jews rejoice on the festival of Weeks because they then received something which on faith they assumed to be of great value. However, that which they first accepted on faith, they learned to appreciate with the passing of time. Six months later when they had already had ample opportunity to study the Torah and glean its insights, they had another celebration. It were as if, said the preacher of Dubno, a man had married a beautiful woman but had never seen her until after the wedding. Months thereafter as he learns to appreciate her beauty and virtue he wants to celebrate another wedding.

It is in this mood that the Festivals are brought to an end. The Jew starts their observance because of his commitment, because of his faith. However, his observance of the Sabbaths and Festivals helps him to achieve the ultimate in happiness.

CONCLUSION

"Happiness," said Justice Holmes to a class of graduating lawyers, "...cannot be won simply by being counsel for great corporations and having an income of fifty thousand dollars. An intellect great enough to win the prize needs other food beside success. The remoter and more general aspects of the law are those which give it universal interest. It is through them that you not only become a great master in your calling, but connect your subject with the universe and catch an echo of the infinite, a glimpse of its unfathomable process, a hint of the universal law." One can hardly offer a better explanation of why Jews have dedicated themselves to the study of Torah. Torah was the revealed will of the Infinite and a reflection of His universal law for the lives of men. The ultimate goal of its study was not only guidance and direction: it was also to help one catch a glimpse of God. That is why Jews who never owned an ox spent many a night and day mastering the intricate rules of torts committed by animals, and why Jews who, as aliens in the countries of their birth, could never acquire land, intoned page after page of Talmud on the manner of taking title to real property. They did this to catch "the echo of the infinite."

It is such an echo that we are to seek on the Sabbath and the Festivals. As the world and its needs change, certainly the problems of the Sabbath and the Festivals become more complicated; no one has the right to turn away from the voices of those Jews who find themselves troubled and disturbed in their holy day observance. It is not enough to say "the Law is the Law." We must understand the Law and its ultimate purposes as best we can, and we must be prepared to interpret and develop the Law as the Rabbis did in the past. It is our privilege and our responsibility to do this. We need the Sabbaths and Festivals perhaps more than ever, and we must save them. However, just as their salvation does not lie in an arid fundamentalism, so their salvation cannot lie in the encouragement of the typical pastimes of American Jews. Jews must live in their tradition. But it would be fatal to forget that the tradition itself must also live.

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